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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,819	09/21/2000	Stuart G. Pickard	MB1-112188-001	2327

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EXAMINER

GART, MATTHEW S

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/668,819

Applicant(s)

PICKARD ET AL.

Examiner

Matthew s Gart

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Shkedy U.S. Patent No. 6,260,024.**

Referring to claims 1 and 12-13. Shkedy discloses a method of transacting sales over a computerized network (at least Abstract), the method comprising the steps of:

- Defining a first product to be purchased by a first purchaser (at least column 5, lines 7-24);
- Enabling the first purchaser to search a product database for a pre-existing database record associated with a product having a relationship to the first product acceptable to the first purchaser (at least Fig. 5).

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- Correlating in a first database record the first product and the first purchaser (at least column 5, lines 7-24);
- Further correlating in respective ones of a plurality of first database records the first product and respective ones of a plurality of second purchasers (Buyer database 255 maintains data on buyers with fields such as name, address, telephone number, credit card number, ID number, social security number, electronic mail address, smart card ID, credit history, public/private key information etc. Buyer database 255 also contains the tracking number of each FPO 100 generated by the buyer, and the tracking number of each pooled order 110 that comprises the buyer's FPOs 100.);
- Issuing an offer to a vendor to purchase the first product at a first offer price in a quantity responsive to the plurality of first database records (at least Fig. 7 and Fig. 8);
- Enabling a vendor of products having a predetermined similarity to the first product to search the product database (at least Fig. 7); and
- Consummating a transaction between the vendor and the first and second purchasers (at least column 3, lines 39-57).

Referring to claim 2. Shkedy discloses a method wherein prior to performing said step of issuing an offer there is further provided the step of calculating a first commitment price (at least Fig. 2A, Step 54).

Referring to claims 3-6. Shkedy discloses a method according to claim 2 as indicated supra. The method of calculating a first commitment price will not distinguish

the claimed invention from the prior art in terms of Patentability. These dependent claims are based on non-material functional language and therefore will be given little patentable weight. The method of calculating a first commitment price is not critical to the invention "A method of transacting sales over a computerized network," and could be calculated via numerous means.

Referring to claim 7. Shkedy further discloses a method wherein there are provided the steps of defining a second product desired to be purchased by a first purchaser and correlating in the second database record the second product and the first purchaser (at least column 5, lines 25-30).

Referring to claim 8. Shkedy further discloses a method wherein there is further provided the step of correlating in respective ones of a plurality of second database records the second product and respective ones of a plurality of third purchasers (at least Fig. 1).

Referring to claim 9. Shkedy further discloses a method wherein there is further provided the step of issuing a offer to a vendor to purchase the second product at a second offer price in a quantity responsive to the plurality of second database records (at least column 15, lines 42-57).

Referring to claim 10. Shkedy further discloses a method wherein there is provided the step of formulating a first consolidated report for presentation to the first purchaser responsive to the first and second offer prices (at least Fig. 10, Step 1020).

Referring to claim 11. Shkedy further discloses a method wherein there is provided the step of formulating a first consolidated report for presentation to the first purchaser responsive to the first and second database records (at least Fig. 2).

Referring to claims 14. Shkedy further discloses a method wherein prior to performing said step of consummating a transaction there is provided the step of consummating a transaction between at least one vendor for a quantity of the first product responsive to a predetermined portion of the total number of first database records (at least Fig. 5).

Referring to claims 15. Shkedy further discloses a method wherein prior to performing said step of consummating a transaction there is provided the step of consummating a transaction between at least one vendor for a quantity of the first product responsive to the total number of first database records (at least Fig. 5).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Shkedy, U.S. Patent No. 6,236,972, May 22, 2001; discloses a method and apparatus for facilitating transactions on a commercial network system.

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Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

  
WYNN W. COGGINS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

MSG

February 22, 2003